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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/803,987	03/19/2004	Andrew Friedman	00169.101880.	6907
5514 7590 06/07/2010 FITZPATRICK CELLA HARPER & SCINTO 1290 Avenue of the Americas NEW YORK, NY 10104-3800				
EXAMINER				
KHAN, ASHER R				
ART UNIT		PAPER NUMBER		
2621				
MAIL DATE		DELIVERY MODE		
06/07/2010		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/803,987

**Applicant(s)**

FRIEDMAN, ANDREW

**Examiner**

ASHER KHAN

**Art Unit**

2621

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 03/23/2010.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1, 3, 4, 6, 8, 10-13, 15 and 18 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) 1, 3, 4, 6, 8, 10-13, 15 and 18 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB06)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Response to Arguments***

Applicant's arguments filed 3/23/2010 have been fully considered but they are not persuasive.

In re page 9, Applicants argue that Hsiao does not disclose or suggest adding an EDL element into a second media track (the EDL item referencing a media item from the first group of media items), associating at least one track control attribute in the EDL element with at least one subsequent EDL element in the second media track, the attribute affecting a duration of a media item in the first media track referenced by the EDL element in the second media track, and generating the first media track in accordance with the EDL element, the track control attribute, and another media item in a third media track.

In response the Examiner respectfully disagrees. Hsiao discloses adding an Edit Decision List (EDL) element (607, Fig. 6) into a second media track (Fig. 6, VB), the EDL element referencing a media item from the first group of media items(video clips or transition effects;0020); and associating at least one track control attribute (603, Fig. 6) in the EDL element (605, Fig. 6) with at least one subsequent EDL element (607, Fig. 6) in the second media track(Fig. 6, VB), the track control attribute affecting a duration (622, 00:00:50 to 00:01:00) of a media item (Fig. 6, 605) in the first media track referenced by the EDL element in second media track (Fig. 6, 607)(0020-0025); generating the first media track in accordance with the EDL element (605, Fig. 6), the at

least one track control attribute(603, Fig. 6), and another dependent media item in a third media track (Fig. 6, 609)

***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

**2. Claim 1, 3, 4, 6, 8, 13, 15 and 18 rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent Pub 2003/0002851 A1 to Hsiao et al. "Hsiao".**

As to claims 1, 13, 15 and 18, Hsiao discloses a method of generating a first media track (VA, 0021), the first media track comprising a sequence media items (Fig. 6) selected from a first group of media items (video clips or transition effects;0020), said method comprising the steps of:

adding an Edit Decision List (EDL) element (607, Fig. 6) into a second media track (Fig. 6, VB), the EDL element referencing a media item from the first group of media items(video clips or transition effects;0020); and

associating at least one track control attribute (603, Fig. 6) in the EDL element (605, Fig. 6) with at least one subsequent EDL element (607, Fig. 6) in the second media track(Fig. 6, VB), the track control attribute affecting a duration (622, 00:00:50 to 00:01:00) of a media item (Fig. 6, 605) in the first media track referenced by the EDL element in second media track (Fig. 6, 607)(0020-0025);

generating the first media track in accordance with the EDL element (605, Fig. 6), the at

least one track control attribute (603, Fig. 6), and another dependent media item in a third media track (Fig. 6, 609) and upon a sequence of EDL elements being modified (Fig. 5, 509), wherein the EDL element having the track control attribute is moved to a new position in the modified sequence: (a) rearranging the media items in the first media track in accordance with the modified sequence of the EDL elements; and (b) associating the track control attribute with at least one subsequent EDL element in the modified sequence, the track control attribute (603, Fig. 6) affecting a duration of a media item in the first media track referenced by the EDL element in the modified sequence (0021-0025), the duration (621; Fig. 6) of the media item in the first media track being based on a duration (624) of the another media item in the third media track.

As to claim 3, Hsiao discloses everything claimed as applied in claim 1 above. In addition Hsiao discloses wherein the re-arranging step comprises deletion of the EDL element (0025).

As to claim 4, Hsiao discloses everything claimed as applied in claim 1 above. In addition Hsiao discloses wherein the first media track is started in accordance with a track control attribute associated with an EDL element in the sequence of the EDL elements (0021-0025).

As to claim 6, Hsiao discloses everything claimed as applied in claim 1 above. In addition Hsiao discloses wherein the first media track is terminated in accordance with a track control attribute associated with an EDL element in the sequence of the EDL elements (0021-0025).

As to claim 8, Hsiao discloses everything claimed as applied in claim 1 above. In

addition Hsiao discloses wherein the first media track is a graphical overlay that is referenced by a track control attribute of the at least one track control attribute (0021-0025).

***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**2. Claim 10, 11 and 12 rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent Pub 2003/0002851 A1 to Hsiao et al. "Hsiao" in view of U.S. Patent 6,970,639 to McGrath et al. "McGrath".**

As to claim 10, Hsiao discloses everything claimed as applied in claim 1 above. However Hsiao does not expressly disclose wherein the media item in the first media track comprises a copy of a source media item in a source media track, which is referenced by an EDL element in the sequence of the EDL elements.

McGrath further discloses wherein the media item in the media track comprises a copy of the source media item (Fig. 3C is a copy of Fig. 3B) in a source media track, which is referenced by an EDL element in the sequence of EDL elements (sections and edit effects for example intro, wipe, cut and etc, Fig. 2; Col. 10, lines 60-65).

At the time of invention, it would have been obvious to a person of ordinary skill in the art to combine Hsiao with the teachings of McGrath. Rationale to combine would

have been that all the claimed elements were known in the prior art and one skilled in the art could have combined the elements as claimed by known methods with no change in their respective functions, and combination would have yielded predictable results to one of ordinary skill in the art at the time of the invention.

As to claim 11, Hsiao discloses everything claimed as applied in claim 1 above. However Hsiao does not expressly disclose wherein the copy of the source media item forms the media item in the first media track.

McGrath further discloses wherein the copy of the source media item (Fig. 3B) forms the media item in the media track (Fig. 3C).

At the time of invention, it would have been obvious to a person of ordinary skill in the art to combine Hsiao with the teachings of McGrath. Rationale to combine would have been that all the claimed elements were known in the prior art and one skilled in the art could have combined the elements as claimed by known methods with no change in their respective functions, and combination would have yielded predictable results to one of ordinary skill in the art at the time of the invention.

As to claim 12, Hsiao discloses everything claimed as applied in claim 1 above. Hsiao further discloses media tracks (0021). However Hsiao does not expressly disclose wherein the track control attribute comprises one of (a) an attribute to activate a media item in the media track and (b) an attribute to deactivate the media item in the media track.

Mcgrath discloses wherein a said track control attribute comprises one of an attribute to activate (Fig. 2, 200) the dependent media item and an attribute to deactivate (Fig. 2, 240) the dependent media item (Fig. 2).

At the time of invention, it would have been obvious to a person of ordinary skill in the art to combine Hsiao with the teachings of McGrath. Rationale to combine would have been that all the claimed elements were known in the prior art and one skilled in the art could have combined the elements as claimed by known methods with no change in their respective functions, and combination would have yielded predictable results to one of ordinary skill in the art at the time of the invention.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ASHER KHAN whose telephone number is (571)270-5203. The examiner can normally be reached on 9:00 AM to 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Marsha Banks-Harold can be reached on (571)272-7905. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.



Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Marsha D. Banks-Harold/  
Supervisory Patent Examiner, Art Unit 2621

/A. K./  
Examiner, Art Unit 2621